

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

INDECK KEYSTONE ENERGY LLC,)
)
Plaintiff,)
)
v.) Civil Action No. 04-325 Erie
)
VICTORY ENERGY OPERATIONS) Judge Sean J. McLaughlin
LLC,)
)
Defendant)

**DEFENDANT VICTORY ENERGY OPERATIONS, LLC'S
PROPOSED VOIR DIRE**

Defendant Victory Energy Operations, LLC ("VEO") respectfully requests that the Court allow it to ask the following questions in its examination of prospective jurors, pursuant to Rule 47(a) of the Federal Rules of Civil Procedure.

Proposed Voir Dire

In the trial of this matter, each side is entitled to the fair, unbiased, and impartial consideration of each juror. Each juror must make his or her own independent judgment. If there is any fact or reason why any of you might be biased in any way, it is your duty to disclose it now.

If your response to any of the following questions is in the affirmative, please indicate that by raising your hand.

Background

- Q. What is your educational background and what jobs have you held since high school?
- Q: Do you have any background in engineering?
- Q. What about any kind of technical field?
- Q. What about welding?

- Q. What about boilers?
- Q. Are you currently employed?
- Q. Have you ever been a party to a licensing agreement?
- Q. Have you ever worked for someone who was a party to a licensing agreement?
- Q. Have you ever owned your own business?
- Q. Do you think people have a right to compete freely against each other?
- Q. Have you or anyone close to you ever been the victim of a fraud?
- Q. Do you have any experience in the fabrication of welds, boilers, or tanks that prevent you from being fair in this case?
- Q. Have you ever had any ideas or inventions that you sought to patent or copyright?
- Q. Can you tell us about that?
- Q. Was your experience positive or negative?
- Q. Have you ever believed that someone took an idea of yours?
- Q. Can you tell us about that?
- Q. Have you ever been a plaintiff in a lawsuit?
- Q. Have you ever thought about suing someone but did not?

Trade Secret Questions

- Q. Have you ever heard of the phrase "public domain?"
- Q. Are you aware that the definition of "public domain" is that which is publicly available?
- Q. Do you research things on the internet?
- Q. Have you researched any information on the internet in the last week?
- Q. Do you have any preconceived notions about the public domain or the internet?

Potential Bias

- Q. Have you or anyone close to you ever had any kind of relationship with Victory Energy Operations, LLC or Indeck Keystone Energy, LLC?

- Q. If relationship ended, why?
- Q. Do you have any feelings – good or bad – about Victory Energy Operations, LLC or Indeck Keystone Energy, LLC?
- Q. Do you have any bias against boiler manufacturers in general?
- Q. Is there any personal or financial hardship to you if you are asked to sit as a jury in this case for fourteen days?

Involvement in Litigation

- Q. Have you or member of his immediate family ever made a claim or filed a lawsuit or had a claim or lawsuit filed against him involving trademarks, patents, or copyrights?
- Q. If so, please explain the general nature of the claim or litigation.
- Q. Does you feel that the matter was satisfactorily disposed of?
- Q. Will the fact that you had been involved in litigation affect your ability to be a fair and impartial juror in this case?
- Q. Are you willing to give the same consideration and justice to both plaintiff and defendant, even though defendant is not a Pennsylvania company?
- Q. Does any prospective juror oppose the jury system of resolving disputes? [If any oppositions are noted, VEO respectfully requests that the court elicit the nature of the prejudice outside the presence of the jury pool.]
- Q. Do you understand that the party bringing the lawsuit and making a claim here, IKE, has the burden of proving its case by a preponderance of the evidence?
- Q: And do you understand that VEO has the burden of proving its counterclaim by a preponderance of the evidence?
- Q. Do you agree with this proposition?

Q. The judge in this case will provide you with the law that you will apply with respect to the claims and defenses in this case. Do you agree with this proposition and would you be willing to follow the court's explanation of the law as provided in its instructions?

Q. If you should find under the evidence of the law, as the court gives it to you, that defendant, Victory Energy Operations, is not liable, would any of you have difficulty or be reluctant in returning a verdict for the defendant, knowing it could mean that the plaintiff, having suffered an injury, would recover no damages at all.?

Q. If you should find under the evidence of the law, as the court gives it to you, that plaintiff, Indeck Keystone Energy, met its burden of proof, would you be willing to award plaintiff the entire amount of damages it is entitled to?

Prior Jury Service

Q. Have any members of the jury previously served as jurors?

Q. If any juror answers "yes" to the above question, please state the following:

Q. What was the name of the case on which you served?

Q. When did you serve?

Q. Where did you serve?

Q. Were you for foreman on the case?

Q. Briefly tell us what type of case was involved.

Q. If the prior case was a civil case involving intellectual property, breach of contract, or unfair competition claims:

Q. Please state the general nature of the injuries.

Q. Do you believe that your service in a prior trial involving intellectual property, breach of contract, or unfair competition claims will influence your deliberations in this case?

Q. Can you set aside your opinions developed in any prior trial and decide this case solely and exclusively on the evidence and law presented to you in this case?

Dated: May 14, 2007

Respectfully submitted,

/s/ Christopher T. Sheean
One of the Attorneys for Defendant,
VICTORY ENERGY OPERATIONS LLC

Christopher T. Sheean
Brian W. Lewis
Matthew Garrett
Wildman, Harrold, Allen & Dixon LLP
225 W. Wacker Drive, 28th Floor
Chicago, IL 60606
(312) 201-2997

LOCAL COUNSEL:

G. Jay Habas
Marshall, Dennehey, Warner
Coleman & Goggin
1001 State Street, Suite 1400
Erie, PA 16506
(814) 461-7800
PA ID No. 55581

Counsel for Victory Energy Operations LLC

CERTIFICATE OF SERVICE

Christopher T. Sheean, an attorney, certifies that on the 14th day of May, 2007, he caused a copy of the foregoing ***Defendant Victory Energy Operations, LLC's Proposed Voir Dire*** to be sent electronically to the following counsel of record:

John K. Gisleson
Schnader Harrison Segal & Lewis LLP
Fifth Avenue Place, Suite 2700
120 Fifth Avenue
Pittsburgh, PA 15222-3001
Email: JGisleson@Schnader.com

/s/ Christopher T. Sheean
Christopher T. Sheean